

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

NICHOLAS WALLS,

Plaintiff,

-vs-

Case No. 02-C-1188

**LARRY WESTOVER, DR. ELSA HORN,
AMY RADLOFF, DANIEL KLOTZBACH,
and MICHAEL KLEMAN,**

Defendants.

DECISION AND ORDER

The plaintiff, Nicholas Walls, filed this civil rights action while incarcerated as a state prisoner pursuant to 42 U.S.C. § 1983. At the time the plaintiff filed the complaint, he was proceeding *pro se*, but he has since retained counsel. The plaintiff has filed a Request for Dismissal with Prejudice, which will be addressed herein.

In an order of July 6, 2005, the plaintiff's motion for dismissal without prejudice was denied. He was instructed to notify the court within 21 days of the order if he wished to seek dismissal with prejudice.

On July 15, 2005, the plaintiff filed a letter that states: "Nicholas Wells, through his attorney Joan M. Boyd, requests a dismissal of the above captioned case with prejudice." (Pl.'s Letter of 7/15/05). The defendants have not filed a response.

The court construes the plaintiff's July 15, 2005 letter as a motion for voluntary dismissal under Fed. R. Civ. P. 41(a)(2). Pursuant to Fed. R. Civ. P. 41(a)(2), the court may enter an order dismissing this action at the plaintiff's insistence upon such terms and conditions as the court deems proper. As noted in the July 6, 2005 order, this case has been pending for more than three years. The defendants have invested significant time and resources in defending against this action. They have sought discovery and filed motions to whittle down the number of defendants originally named and claims originally raised. In light of these facts, the court finds that dismissal with prejudice is appropriate.

ORDER

IT IS THEREFORE ORDERED that the plaintiff's motion for dismissal with prejudice (Docket # 120) is **granted**.

IT IS FURTHER ORDERED that this action (Case No. 02-C-1188) is dismissed.

The clerk of court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 7th day of November, 2005.

SO ORDERED,

s/ Rudolph T. Randa
HON. RUDOLPH T. RANDA
Chief Judge